

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

7/2/2025
LAURA A. AUSTIN, CLERK
BY: s/ CARMEN AMOS
DEPUTY CLERK

PETER BRAKE,

Plaintiff,

v.

LIBERTY UNIVERSITY, INC., *et al.*,

Defendants.

CASE NO. 6:23-cv-00054

ORDER

JUDGE NORMAN K. MOON

Plaintiff Peter Brake, a former civil rights compliance officer at Liberty University, has sued the university and five of its administrators, including Defendant Jonathan Falwell. Defendant Falwell moves to dismiss the counts against him for failure to state a claim. Dkt. 20. The motion is unopposed. The parties only dispute whether the dismissal should be made with or without prejudice.

After a hearing, the Court finds that dismissal with prejudice is warranted. Plaintiff cites Federal Rule of Civil Procedure 41(a)(2) as its authority for a dismissal without prejudice, but that rule governs the effect of *voluntary* dismissals by the plaintiff. Here, Plaintiff has not voluntarily dismissed the claims against Falwell. Rather, Plaintiff concedes to dismissal in response to Falwell's defensive motion. Rule 41(a)(2) does not apply in this context. Therefore, Defendant's motion to dismiss with prejudice, Dkt. 20, is **GRANTED**.

It is so **ORDERED**.

The Clerk of the Court is directed to send a copy of this Order to all counsel of record.

Entered this 2nd day of July, 2025.



NORMAN K. MOON
SENIOR UNITED STATES DISTRICT JUDGE